



Commonwealth of Massachusetts State Ethics Commission

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SUFFOLK, ss.

**COMMISSION ADJUDICATORY
DOCKET NO. 619**

**IN THE MATTER
OF
PHILIP TRAVIS**

DISPOSITION AGREEMENT

The State Ethics Commission and Philip Travis enter into this Settlement Agreement pursuant to Section 5 of the Commission's Enforcement Procedures. This Agreement constitutes a consented-to final order enforceable in the Superior Court, pursuant to G.L. c. 268B, §4(j).

On October 20, 1999, the Commission initiated, pursuant to G.L. c. 268B, §4(a), a preliminary inquiry into possible violations of the conflict of interest law, G.L. c. 268A, by Travis. The Commission concluded its inquiry and, on June 21, 2000, found reasonable cause to believe that Travis violated G.L. c. 268A. On April 19, 2001, the Commission's Enforcement Division issued an Order to Show Cause. Travis answered on May 10, 2001, denying that he had violated the law and setting forth four affirmative defenses. On June 15, 2001, the parties submitted a Joint Motion for Entry of Judgment based on this disposition agreement rather than having a hearing on the charges and affirmative defenses. The Commission approved that motion on June 20, 2001. The Commission and Travis now agree to the following findings of fact and conclusions of law:

US Trust Solicitation Findings of Fact

1. At all times relevant, Travis was an elected state representative from the Fourth Bristol District. He was also House chairman of the Joint Committee on Banks and Banking ("the banking committee"). As such, Travis was a state employee as that term is defined in G.L. c. 268A, §1, and subject to the provisions of the conflict of interest law, G.L. c. 268A.
2. The banking committee's primary responsibility is to oversee and draft legislation regarding state-chartered banks and credit unions. As House chairman of the banking committee, Travis worked with his Senate counterpart to schedule and conduct hearings and to oversee various pieces of banking legislation through the banking committee.
3. In 1997 and 1998, the banking committee addressed a variety of matters affecting banks. These included such matters as mortgage transactions, banks selling insurance, regulatory compliance, lending limits, electronic funds transfers, bank security, and a bill to ban ATM surcharges.
4. At the time relevant, Seaconke Wampanoag Indian Tribe, Inc. ("the Tribe") was a non-profit entity with a usual place of business in Travis' district.
5. In July 1998, the Tribe asked Travis to help raise money to buy a half-acre lot of land in Seekonk, on which a visitors' center would be constructed.
6. On or about September 10, 1998, Travis and the banking committee counsel met in Travis' State House office with US Trust senior executives, including its chief executive officer. The primary purpose of the meeting was to introduce US Trust's CEO to Travis as the banking committee co-chair. The

meeting lasted about 45 minutes and covered various topics of concern to the bank. In addition, the parties exchanged personal background information.

7. At the end of the meeting, with the banking committee counsel still present, Travis asked the US Trust CEO if his bank had a philanthropic organization interested in making a charitable donation to the Tribe. The CEO said he would put Travis in touch with the appropriate people at US Trust.

8. Travis forwarded an informational packet about the Tribe's fund-raising efforts to US Trust. Travis attached his State House business card, which identified him as the banking committee chair, to the packet. The informational packet listed contribution possibilities ranging from \$1,000 to \$25,000.

9. On September 16, 1998, the Tribe executed a purchase and sale agreement for the land in Seekonk.

10. In October 1998, Travis contacted US Trust employees on four or five occasions to discuss the status of the requested donation. In addition, on at least two occasions during that time Travis had a banking committee staff member make telephone inquiries regarding the request as well. As a result of these conversations, the committee staff member and Travis believed that US Trust had agreed to make a \$2,000 contribution to the Tribe. Travis asked US Trust to consider increasing its donation to \$5,000.

11. According to US Trust personnel, the bank never had any dealings with the Tribe. US Trust had no branches in Seekonk or adjacent communities. According to the US Trust employee who was dealing directly with Travis on this matter, US Trust ordinarily would not have given serious consideration to a request like the Tribe's where the request was so large (\$25,000 according to the US Trust employee) and involved a non-profit outside US Trust's market. Because US Trust's CEO was trying to establish a good relationship with Travis, however, the employee was reluctant to reject the request. Eventually, she shared her concerns with US Trust's legal counsel. After counsel's review, US Trust decided to reject the request. None of the facts set forth in this paragraph were made known to Travis prior to November 10, 1998.

12. On November 10, 1998, Travis learned that US Trust would not make a donation to the Tribe. On that same day he left voice-mail messages for two US Trust employees. The first message was:

Hi, [____], this is Representative Phil Travis at the State House. I just got a phone call from [bank employee]. Complete shock to me that your institution cannot give a contribution to the Seaconke Wampanoag Tribe for their visitors' center and learning center they're planning to build in Seekonk. I thought we had a commitment of \$2,000 towards that venture. All I have here is "after checking with Legal Review they decided it's not a good idea." I don't think it constitutes a conflict of any sort. Other institutions have made contributions to this and to other things in the past freely because it doesn't involve me personally and they're non-profits in every instance. So perhaps you can give me a clarification and I would appreciate that. And I certainly won't be so bold in the future to approach your institution for anything like this. If we can't deal with this issue, I'm sure we'll have problems with others. Thank you.

The second message was:

Hi, [____], this is Chairman Phil Travis at the State House, just calling back. [bank staffer] told me you folks had called on the Wampanoag Seaconke Tribe towards the construction of their center, that your institution could not be of any help. Number one: I certainly do not appreciate the timeliness of your late reply. You've had this situation to deal with for nearly three weeks. A commitment was made for \$2,000, which was fine. We tried to increase it to five (\$5,000) and I can understand perhaps that wasn't doable. Now we have nothing. And I've already told (the Tribe) what they might expect. But if that is the way you folks deal, that certainly will have to be understood. I really don't

appreciate the runaround and the time consumed. I appreciate the effort. I'm sure a lot of thought went into it. But I wish someone from [CEO] down to your level could have said "no" up front and not lingered for so long. It doesn't sit well with me and I certainly will remember this particular incident. Thank you.

13. According to the US Trust employees who received those voice mail messages, they were alarmed by their tone and content. They shared the voice mails with one another and contacted senior US Trust officials to relay their concern that Travis was threatening retaliation if US Trust did not reconsider a donation. One of the employee's concerns was that Travis was threatening taking away "access to his committee." These concerns were not shared with Travis.

14. In addition, at or about the same time, Travis tried to speak directly to US Trust's CEO, but failing that left a message with a US Trust secretary in which he identified himself as the banking committee chair, asked that the CEO return his call, and asked that the CEO be told that Travis was "extremely upset" (according to the secretary's note) over US Trust's decision. The US Trust CEO decided not to return the call. US Trust did not alter its decision.

15. According to Travis, he did not intend the voice-mail messages or any of his conduct to be threatening in any way. Rather, he was expressing his strong disapproval of what he perceived to be US Trust's reneging on a commitment to him and, more importantly from Travis' perspective, to the Seaconke Wampanoags.

16. There is no evidence that Travis took retaliatory action against US Trust.

Conclusions of Law

17. General Laws c. 268A, §23(b)(2) prohibits a state employee from knowingly, or with reason to know, using or attempting to use his official position to secure for himself or others unwarranted privileges or exemptions which are of substantial value and which are not properly available to similarly situated individuals.

18. By soliciting a private donation from US Trust under the particular facts described above, Travis had reason to know that he was attempting to use his official position to obtain an unwarranted privilege. Such conclusion is based on the following factors. First, Travis was the House chair of the powerful joint banking committee. Second, he solicited a private donation from an entity that had or would have interests in legislative matters before the banking committee. Third, at the time that Travis made his solicitation request, US Trust had or would have interests in legislation that potentially had a significant impact on banking business. Finally, Travis initially solicited the donation in the context of a concluded business meeting where he was acting in his legislative capacity and had access to US Trust executives. The unwarranted nature of the solicitation is further exacerbated by the voice-mail in which Travis identified himself as banking committee chair and left a message which was construed as a threat of retaliation (even if unintended by Travis as such).

19. Under these circumstances, the unwarranted privilege was of substantial value.

20. The ability to have a banking committee chairman solicit private donations from entities that had or would have interests in legislative matters before his committee under the above circumstances is not properly available to similarly situated individuals.

21. Therefore, based on the above circumstances, Travis, with reason to know, used his official position to secure for private entities an unwarranted privilege of substantial value not properly available to similarly situated individuals. By doing so, Travis violated G.L. c. 268A, §23(b)(2).

Findings of Fact Concerning Other Solicitations

22. In September 1998, early October 1998, and later in October 1998, Travis solicited donations for the Tribe from Fleet Bank, BankBoston and Citizens Bank, respectively. In addition, in January 1998, Travis solicited a donation from Fleet Bank for a non-profit entity other than the Tribe. Those banks had or would have interests in legislation subject to the banking committee's jurisdiction. These solicitations occurred while Travis was the banking committee chair and took place at Travis' State House office immediately or shortly after he had an official business meeting with one or more representatives of the banks solicited.

23. Charities initially received a total of \$30,000 in charitable donations as a result of Travis' solicitations.^{1/}

24. None of these solicitations involved voice mail messages or any other type of language similar to that quoted above as to the US Trust solicitation that could be reasonably construed as a threat.

25. According to Travis, he did not intend to use his banking committee chair position to cause the banks to make contributions as a result of these solicitations.

Conclusions of Law

26. By soliciting at his State House office, private donations from entities that had or would have interests in legislative matters before the banking committee (of which he was the committee chairman), where those solicitations took place immediately after an official business meeting between him and the bank's representatives, Travis had reason to know that he was using or attempting to use his official position to obtain an unwarranted privilege. This is because he has reason to know that the combination of 1) who he was; 2) who the party solicited was; and 3) where the solicitation took place, would create implicit pressure on the banks to contribute because he was the banking committee chair.

27. Under these circumstances, the unwarranted privileges were of substantial value.

28. The ability to have a banking committee chairman solicit private donations from entities that had or would have interests in legislative matters before his committee under the above circumstances is not properly available to similarly situated individuals.

29. Therefore, based on the above circumstances, Travis had reason to know he used his official position to secure for private entities an unwarranted privilege of substantial value not properly available to similarly situated individuals. By doing so, Travis violated G.L. c. 268A, §23(b)(2).

Resolution

In view of the foregoing violations of G.L. c. 268A by Travis, the Commission has determined that the public interest would be served by the disposition of this matter without further enforcement proceedings, on the basis of the following terms and conditions agreed to by Travis:

(1) that Travis pay to the Commission the sum of \$1,500 as a civil penalty for violations of §23(b)(2); and

(2) that Travis waive all rights to contest the findings of fact, conclusions of law and terms and conditions contained in this Agreement in this or any other related administrative or judicial proceedings to which the Commission is or may be a party.

DATE: June 27, 2001

